



State of Connecticut
GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

Labor and Public Employees Committee
Tuesday February 26, 2019
LOB 1B 12:00PM

In **SUPPORT** of Senate Bill 164
*An Act Including Certain Mental or Emotional Impairments
Within the Definition of "Personal Injury" Under the
Workers' Compensation Statutes*

Chairwoman Kushner, Chairwoman Porter, and distinguished members of the Labor and Public Employees Committee, we are here to testify in **support** of Senate Bill 164, *An Act Including Certain Mental or Emotional Impairments within the Definition of "Personal Injury" Under the Workers' Compensation Statutes*.

PTSD is one of the most common mental illnesses. According to the National Center for PTSD, 7-8% of the United States population will have PTS at some point in their life, amounting to 8 million adults suffering from PTS in a given year. First responders who have witnessed traumatic events on the job can experience difficulty coping or adjusting to the event for weeks and months at a time, and oftentimes suffer from intense flashbacks, nightmares, severe anxiety, and depression in the wake of the event.

Connecticut only covers work-related mental injuries when they are sustained in conjunction with physical injuries. However, standalone mental injuries can be debilitating and limiting enough that they need to be addressed and accounted for in the realm of workers' compensation. The legislation before you today would extend workers' compensation coverage to include Post-Traumatic Stress Disorder for first responders. At present, how PTS claims are handled depends on the state in which the traumatic event occurs. In order to ensure that these workers' comp claims are covered, it is necessary for us to expand the definition of what an injury is, and how injuries are identified and treated here in Connecticut.

These ideas and proposals are not unique to Connecticut. Several states have considered legislation to allow standalone mental injuries to be covered by workers' compensation. Since 2013, over ten states have considered mental health coverage for first responders. In 2017, Colorado, Texas, Vermont, and South Carolina enacted

legislation to extend workers' compensation coverage to include PTS for first responders. According to the National Council on Compensation Insurance, at least 16 states explored similar legislation in 2018, including Arizona, Kentucky, Minnesota, Missouri, Ohio, South Carolina, and West Virginia. In Vermont, for example, they considered 2 PTS bills in the 2017 session. While one failed to pass out of the Senate, another was signed into law, making it easier for all employees in the state to make a mental health claim and it also created a specific presumption for first responders.

There is a need for this type of coverage given the amount of shocking scenes our state's first responders come across in this day and age. As you may recall, many of the first responders who were on the ground during the Sandy Hook Elementary School shooting were diagnosed with PTS following that tragedy. Some have been unable to return to work to this day. If we are to honor and protect our first responders, we must provide them with the mental health care services they need to recover from pain and suffering, especially when their injuries are not visible.

We thank you again for the opportunity to testify in support of Senate Bill 164. We look forward to working with the leadership and members of this committee on this bill's passage.

Catherine A. Osten, 19th
Senate Co-Chair, Appropriations Committee

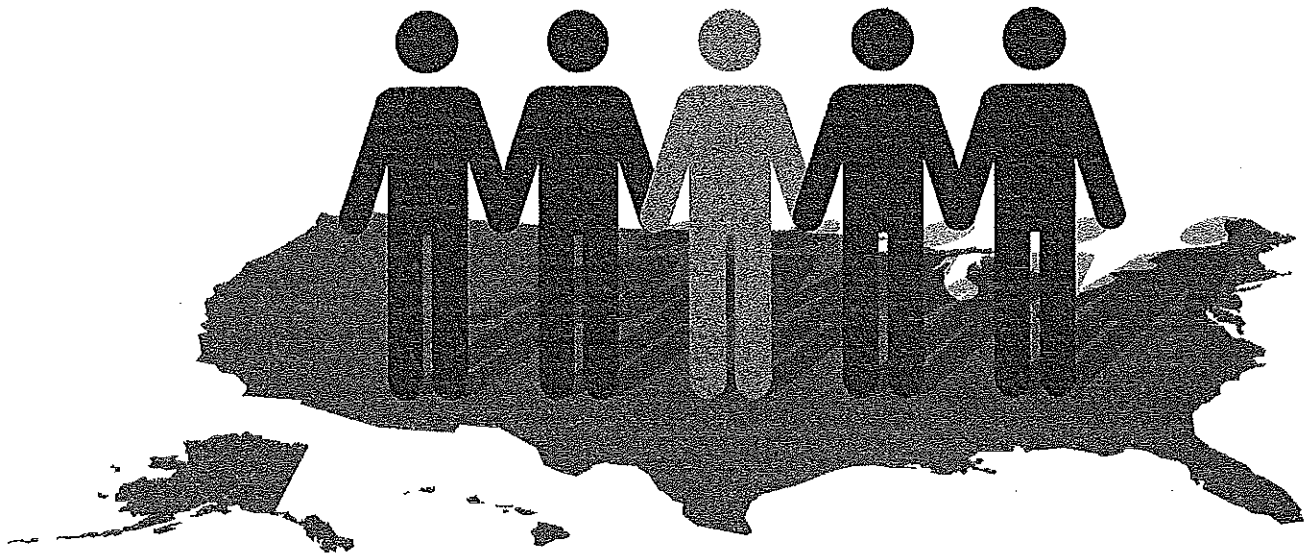
Bob Duff, 25th
Senate Majority Leader



Mental Health Coverage for First Responders

IWP

The Patient Advocate Pharmacy®



In the United States, one in five adult Americans will experience a mental health issue. And while the term “mental health issue” captures a lot of different diagnoses, the prevalence of such issues has brought mental health to the forefront in the last few years.

Workers’ compensation is one area where the occurrences of mental health illnesses has reached a point where it can no longer be ignored. Events throughout the country have forced legislatures to examine their state’s workers’ compensation systems and how it handles mental illnesses.

Much of the conversation regarding workers’

compensation and mental health focuses on Post Traumatic Stress Disorder (PTSD), one of the most common mental health illnesses linked to an employee’s work. Individuals with PTSD continue to experience difficulty adjusting or coping because of the event for months or years after, often experiencing flashbacks, nightmares, severe anxiety, and depression.²

Although PTSD has been closely associated with war, there is strong evidence that many first responders suffer from PTSD and recent events within the United States have further highlighted that link. First responders are sent into extreme situations where violence and death is front and center, and while many walk away from these events without physical injury, mental health issues often arise much later.

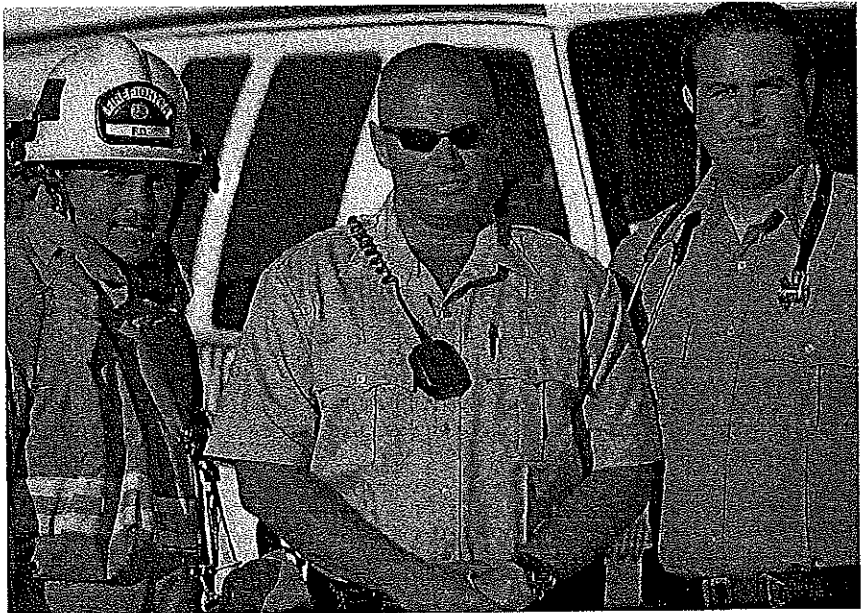
What is PTSD?

A mental health condition triggered by experiencing or witnessing a traumatic event, such as a death, violent assault, natural disaster, or serious accident.²

In the last few years we have seen mass shootings at work places, night clubs, and even elementary schools – these events gain national attention but the after effects on those we send in to help are just now garnering attention. Reports from the first responders of

Sandy Hook, San Bernardino, and the Pulse Nightclub shooting indicate the mental toll on first responders is becoming a bigger issue than we have recognized in the past and raises questions about what protections we owe to these workers now and in the future.

As these, and other tragic events continue to occur, reports of mental illness, most commonly PTSD, among first responders continue to grow. As the claims pile up, the calls for action from first responders and their unions are becoming harder to ignore within state legislatures, forcing conversations across the country about how the workers' comp industry should handle mental health.



According to the
National Center for
PTSD, about

7-8%
of the U.S.

population will
have PTSD at some
point in their life,
amounting to

8 million
adults with PTSD in
a given year.³

Like any other workers' comp claim, how PTSD claims are treated depends on the state. States generally fall into two categories, those that require a physical injury to be associated with a claim, inherently barring any mental health claim, and those that allow mental health claims but only when the triggering event is out of the ordinary for the employee's job. Both of these approaches create a problem for implementing PTSD coverage for first responders.

States that currently require a physical injury to be associated with a workers' comp claim would have to remove such a requirement in order for a PTSD claim to be made. PTSD is not always associated with a physical injury and in some cases the "injuries" linked to PTSD are considered subjective.

A traditional work related injury usually has a direct link between the accident and a visible, physical injury. If a worker breaks their ankle, we have x-rays. If a worker suffers a slipped disk, we have MRI scans. But when a worker witnesses a terrorist attack or a school shooting and suffers flashbacks, nightmares, or anxiety, there is no clear medical test that will indicate it.

In order to open the doors for a workers' comp claim for PTSD, workers' comp statutes need to be reworked - not only by broadening the definition of what an injury is, but also by how an injury is identified and valued.

Additionally, hurdles arise in states that allow PTSD claims but require that the event causing the condition be outside of the workers usual employment experience. Under this requirement, all first responders would likely be excluded from filing a mental health workers' comp claim. Situations that are likely to cause PTSD, such as major accidents, witnessing a death, and even terrorism, are par for the course for most first responders. Their job is to respond to tragedy, therefore it makes it nearly impossible for them to claim PTSD under the workers' comp requirements in these states - these are not out of the ordinary, they are the ordinary. Although many of these states allow for PTSD claims where a first responder witnesses the death of a fellow first responder, the call for action over the last few years has forced these states to reconsider this narrow exception and explore the need for broader coverage.

As a result, while the call for expanded workers' comp coverage for PTSD in first responders has seen tremendous growth across the country in recent years, the actual implementation of such expansion raises significant concerns that have slowed its passage.

Although the issue has been introduced in at least ten states over the last few years, until 2017, most states could not pass such a measure.

In order to make it work, states would have to consider a number of changes to their current statutes and deal with difficult questions about the scope and execution of such coverage.

First and foremost, states would have to amend their requirements for a workers' comp claim. In states that require a physical injury to be

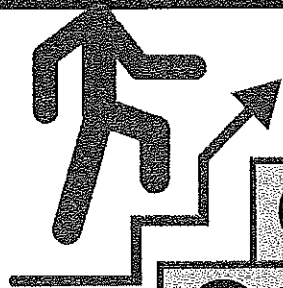
associated, they would have to either remove the requirement or create an exception in cases of PTSD. States that allow non-physical injury claims would have to broaden the scope of those claims to capture first responders whose everyday job subjects them to circumstances that give rise to a mental health claim. Even states that already have an exception for first responder mental health claims would likely have to consider a broader scope, allowing claims for all sorts of circumstances that are the tragic reality of first responder's work these days.

In 2016, in an attempt to broaden **Colorado's** workers' comp statute, the legislature considered HB 1399.

Restructuring the statute does not stop at what injuries are captured. It forces states to examine who they are willing to cover.



5 Steps To First Responders Gaining Access To Work Comp Benefits



1

States need to consider amending workers' compensation statutes

2

Remove the physical injury requirement by broadening the definition of what an injury is and how an injury is identified

3

Accept mental health claims, such as PTSD, as a qualified mental condition/injury

4

Create an exception for first responders when an out of the ordinary triggering event is required

5

Determine costs and budget

At the time, Colorado's law allowed for mental health claims where the "psychologically traumatic event... is generally outside of a worker's usual experience and... evoke[s] significant symptoms of distress."⁴

Therefore, most employees were entitled to PTSD for traumatic events but first responders were excluded. However, the language of HB 1399 was too broad, capturing a mental health workers' comp claim for all employees in the state, regardless of profession. The bill faced significant opposition over concerns it was too broad. Opponents argued the language, all employees in the state would qualify for PTSD coverage regardless of the triggering

event, opening the door for a claim based on something such as a bad performance review. The bill ultimately failed in 2016 because of these concerns.

Even after consideration of the language and structure of the workers' comp statute, states considering mental health coverage for first responders have faced significant concerns from stakeholders.

Expansion of benefits for first responders means employers,

mostly cities, towns, and municipalities, would be required to offer more coverage, which costs, but are not provided additional money to help the localities cover the expansion.

How much
is the unfunded
mandate?...

It will
constantly vary.

As a new claim for most states, there is little information to determine how much such a mandate would cost a locality. Creating uncertainty and leaving them open to a potentially massive insurance spend if a tragedy occurs in their locality.

What will it cost?

\$\$\$

Connecticut has been considering PTSD coverage for first responders since 2013. Warnings of excessive costs or unfunded benefits is a central focus of every public hearing on the matter, and is frequently cited as the reason the bills fail each year.

Specifically for **Connecticut**, the state has faced significant budget deficits every year the bill has been proposed and municipal leaders feel another mandated benefit will ultimately cause loss of jobs.⁵

As mental health and PTSD continue to be recognized as medical conditions, states have begun the hard work of updating their workers' comp statutes to recognize mental health illnesses and more specifically, to help pave the way for first responders to access these benefits.

States across the country, from **Vermont** to **New Mexico**, have introduced bills that would expand workers' comp coverage for first responders to include PTSD. They have made changes

Are first responders entitled to **PTSD** coverage?

that remove the physical injury requirement.

They've changed the requirements for proving a workers' comp injury to account for mental health illnesses. They've had the hard conversations and heard the concerns, and while some states have stumbled, others have started leading the way.

A state leading the charge for PTSD coverage for first responders is **Connecticut**. The 2012 Sandy Hook Elementary School shooting, which took the lives of 26 people, including 20 first graders, forced **Connecticut** officials to reexamine the way their state's workers' comp system handled mental health claims. Many of the first responders to the incident were diagnosed with PTSD and to this day, some remain unable to return to work.⁶ As soon as the 2013 session commenced, legislation was introduced in the state that would allow for PTSD claims to be covered under the state's workers' comp laws. In the years since, the bill has failed to pass both houses but each year it continues to be introduced.



While **Connecticut** has struggled to pass the final hurdle and expand coverage, other states have seen more success. Since 2013, over ten states, including **Florida, Maine, Minnesota, South Carolina, and Vermont**, have considered mental health coverage for first responders.

In 2017, **Texas and Colorado** passed legislation expanding workers' comp coverage for first responders. In the final days of session, **Texas** passed HB 1983 which would make PTSD compensable for firefighters and police officers in the state.

Moreover, in May, **Colorado** finally found agreement on PTSD coverage, passing HB 1229, signed into law on June 5, 2017. The bill changes the requirements of a mental health claim under workers' comp to allow for first responders' claims.

As *THE* Patient Advocacy Pharmacy, IWP is committed to shining a spotlight on the issues that impact injured workers' across the country. As the prevalence of mental health workers' comp claims grow, IWP is committed to treating injured workers comprehensively, ensuring they have access to the services and treatments they need to get back to work. As states continue to work through this complicated legislative issue, IWP remains committed to engaging in the conversation with all stakeholders to better serve our patients.

Sources:

1. *The State of Mental Health in America 2017*, Mental Health America, (August 1, 2017), <http://www.mentalhealthamerica.net/issues/state-mental-health-america/key>.
2. Post-Traumatic Stress Disorder (PTSD): Overview, Mayo Clinic, <http://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/home/ovc-20308548>; Post-Traumatic Stress Disorder, National Institute of Mental Health, <https://www.nimh.nih.gov/health/topics/post-traumatic-stress-disorder-ptsd/index.shtml>.
3. How Common is PTSD?, PTSD: The National Center for PTSD (October 13, 2016), <https://www.ptsd.va.gov/public/PTSD-overview/basics/how-common-is-ptsd.asp>.
4. *Colo. Rev. Stat. § 8-41-301 (2)(a)*.
5. Gregory B. Hladky, *Despite Cost Warnings, Panel Passes PTSD Coverage for First Responders*, Hartford Courant, March 1, 2016, at <http://www.courant.com/news/connecticut/hc-ptsd-debate-20160301-story.html>.
6. Ray Rivera, *Reliving Horror and Faint Hope at Massacre Site*, N.Y. Times, January 28, 2013, at <http://www.nytimes.com/2013/01/29/nyregion/horror-of-newtown-shooting-scene-are-slow-to-fade.html>.

More Legislative Updates



SB 516 would have provided coverage for mental and nervous injuries of first responders in the state. The bill died in Committee.



Vermont considered two PTSD bills in the 2017 session. H 197 would have created a presumption for first responders that a mental health claim arose in the line of duty, however that bill failed to pass out of the Senate. The Governor signed into law S 57 which makes it easier for all employees in the state to make a mental health claim and creates a specific presumption for first responders.



HB 157 was vetoed by Governor Susana Martinez in April 2017. In her veto letter she states, "Firefighters are already able to seek and receive disability benefits for post-traumatic stress disorder through New Mexico's workers' compensation laws. This bill could require fire departments to pay for medical costs related to a firefighter's PTSD, even if that firefighter had not developed the condition as a result of his or her time as a firefighter."



In 2017, the state's Police Union continued a campaign of the legislature to expand workers' comp coverage to include PTSD for its officers.

Better Patient Outcomes Matter to Everyone.

As a national home delivery pharmacy specializing in workers' compensation, we've made it our mission to ensure our patients get the medication they need to return to a productive life. Our simple, hassle-free process is designed to remove the burdens from the prescription process, while driving better outcomes with medication management.

With locations in Massachusetts, Arizona and California, IWP ships more than 50,000 prescriptions each month across the nation. Our team is well-versed in state-specific nuances and the clinical needs of workers' compensation patients.

We are committed to delivering the industry's highest-quality pharmacy care management services and partner with the medical treatment team, attorneys and payers to achieve superior return to work results.

Let's Connect!



IWP (Injured Workers Pharmacy)



Injured Workers Pharmacy



@IWPharmacy



info.iwpharmacy.com

IWP

The Patient Advocate Pharmacy®

To learn more about IWP, visit our website at
www.IWPharmacy.com or call 888-321-7945